BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

Order No. O-12-142

FINAL AGENCY ORDER

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF UNITED AMERICAN INSURANCE COMPANY

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance ("Commissioner") as a result of a market conduct examination ("MCE") conducted by the Colorado Division of Insurance ("Division") of United American Insurance Company ("Respondent"), pursuant to §§ 10-1-203, 204, and 205, as well as § 10-3-1106, C.R.S.

The Commissioner has fully considered and reviewed the Verified MCE Report ("Report") dated February 24, 2012, the written submissions and rebuttals provided March 26, 2012, by Respondent in response to the Report, and the recommendations of staff.

The Report covers the examination period of January 1, 2009, through December 31, 2009.

The Commissioner makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

- At all relevant times during the examination, the Respondent was licensed by the Division to conduct business as a life, accident and health insurer in the State of Colorado.
- 2. On February 24, 2012, in accordance with §§ 10-1-201, 10-1-203, 10-1-204, and 10-1-205, as well as § 10-3-1106, C.R.S., the Division completed an MCE of the Respondent. The period of examination was January 1, 2009, through December 31, 2009.
- In conducting the MCE, the examiners observed those guidelines and procedures set forth in the 2010 Market Regulation Handbook adopted by the National Association of Insurance Commissioners.

- 4. The MCE was completed on February 24, 2012. Pursuant to § 10-1-205(2) the market conduct examiners prepared the Report, which the Examiner-in-Charge timely filed with the Division, under oath, on February 24, 2012. The Report was subsequently timely transmitted to Respondent on February 24, 2012.
- 5. On February 24, 2012, the Division provided the Respondent with written notification that it was afforded a right to file, within thirty (30) days, written submissions or rebuttals with respect to any matter contained in the Report.
- 6. Pursuant to § 10-1-205(1), C.R.S., the Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons who were examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
- 7. On March 26, 2012, Respondent timely filed written submissions and rebuttals to the Report as provided for at § 10-1-205(2), C.R.S.
- 8. The Commissioner has fully considered and reviewed the Report, Respondent's March 26, 2012, submissions and rebuttals to the Report, and the recommendations of staff.
- 9. The MCE has proceeded under the substantive terms, authority and procedures set forth at §§ 10-1-203, 204 and 205, C.R.S., as well as § 10-3-1106, C.R.S.
- 10. This MCE was not conducted as an informal investigation of consumer complaints.
- 11. This MCE did not proceed and was not conducted as a targeted on-site examination pursuant to § 10-1-212, C.R.S.

CONCLUSIONS OF LAW AND ORDER

- 12. Pursuant to § 10-1-205(3)(a), C.R.S., the Commissioner adopts the Report as modified ("Modified Report"). The Commissioner has modified the Report as follows: Issue E5 was removed from the Report.
- 13. The Commissioner finds the Respondent operated in violation of Colorado insurance law and hereby orders the Respondent to take necessary and appropriate action, as set forth herein, to cure such violations.
- 14. The Commissioner considered the options available under §10-1-205(3)(b) and (c), C.R.S. After such consideration the Commissioner did not reject the Report or direct the examiners to reopen the examination for the purposes of obtaining additional data, documentation, or information, or to refile the Report pursuant to subsection (1) of §10-1-205, C.R.S. The Commissioner finds an investigatory hearing, pursuant to §10-

- 1-205(3)(c), C.R.S., for the purposes of obtaining additional documentation, data, information, and testimony, is not warranted.
- 15. A copy of the Modified Report is attached to the Final Agency Order and is incorporated herein. The February 24, 2012, Report provided Respondent with the opportunity to show cause as to why it should not be found in violation of the Colorado insurance laws and/or regulations for all issues identified below. Respondent provided its submission and rebuttals on March 26, 2012. The Respondent was required to cure the violations set forth below in the time frame and manner set forth below.
- 16. Issue A1: Failure to file the Annual Report of Certification of Forms. This failure constitutes a violation of § 10-16-107.2 C.R.S. and Colorado Insurance Regulation 1-1-6. No later than thirty (30) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that the Annual Report of Certification of Forms is filed as required by Colorado insurance law.
- 17. Issue A2: Failure to automatically issue Certificates of Creditable Coverage. This failure constitutes a violation of Colorado Insurance Regulation 4-2-18. No later than thirty (30) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised its processes to ensure that it automatically issues Certificates of Creditable Coverage upon termination of coverage as required by Colorado insurance law.
- 18. Issue E1: Failure to reflect a correct or complete description of the mandated benefits for mammography screening. This failure constitutes a violation of §10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised the content of all applicable riders, certificates and any other policy forms to reflect the correct mandatory coverage provisions required for mammography screening as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant mammography screening benefits and provide the proposed date that the forms will be put in use.
- 19. Issue E2: Failure to reflect a complete, or in some instances, any description of the required coverage to be provided for annual prostate cancer screenings. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised its riders, certificates and all applicable policy forms to reflect a complete description of the benefits for prostate cancer screenings as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policies forms containing compliant prostate cancer screening benefits and provide the proposed date that the

forms will be put in use.

- 20. Issue E3: Failure, in some instances, to reflect the correct provisions under which coverage is to be provided for newborn dependents or a child placed for adoption. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has implemented procedures to ensure that its contract forms, riders, certificates and any other policy forms reflect the automatic coverage to be provided for newborns and children placed for adoption as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant coverage provisions for newborns and children and provide the proposed date the forms will be put in use.
- 21. Issue E4: Failure to allow reimbursement for covered services when lawfully performed by a licensed provider that is a family member or who resides in the insured's household. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised the definitions of health care providers in all applicable forms to remove the exclusion for reimbursement of licensed providers who are family members, or who reside in the covered person's home, as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant definitions of health care providers and provide the proposed date that the forms will be put in use.
- 22. Issue E5: Failure, in some instances, to allow coverage for hospitalization and general anesthesia for dental procedures for qualified dependent children. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has corrected all applicable policy forms to reflect the mandated coverage to be provided for hospitalization and general anesthesia for dental procedures for dependent children as required by Colorado insurance law. The Respondent was also required to provide the Division with specimen copies of all revised policy forms containing compliant benefits for hospitalization and general anesthesia for dental procedures for dependent children and to provide the proposed date that the forms will be put in use. The Division's records indicate that the Respondent has revised the cited forms to include the required verbiage regarding coverage for hospitalization and general anesthesia for dental procedures for dependent children, which if fully implemented, appear to comply with the corrective actions ordered concerning this violation.
- 23. Issue E6: Failure, in some instances, to reflect the mandated benefit for cervical cancer vaccination for all females for whom a vaccination is recommended. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that applicable forms reflect coverage for the mandated benefit of

cervical cancer vaccines as required by Colorado insurance law. The Respondent was also required to provide the Division with specimen copies of all revised policy forms containing compliant cervical cancer vaccine benefits and provide the proposed date that the forms will be put in use. The Division's records indicate that the Respondent has revised the cited forms to include the required verbiage regarding coverage for cervical cancer vaccines, which if fully implemented, appear to comply with the corrective actions ordered concerning this violation.

- 24. Issue E7: Failure to reflect correct benefits, or in some instances, any benefits for child health supervision services. This failure constitutes a violation of § 10-16-104, C.R.S., Colorado Emergency Regulation 08-E12 and Colorado Insurance Regulation 4-6-5. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised its applicable policy forms to reflect the correct mandated benefits for child health supervision services as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all forms revised to reflect correct child health supervision services and provide the proposed date the forms will be put in use.
- 25. Issue E8: Failure, in some instances, to reflect correct or complete benefits for home health services and hospice care coverage. This failure constitutes a violation of § 10-16-104, C.R.S. and Colorado Insurance Regulation 4-2-8. The Respondent was required to provide written evidence to the Division that it has revised all applicable forms to reflect the complete and correct extent of coverage to be provided for home health services and hospice care as required by Colorado insurance law. The Respondent was also required to provide the Division with specimen copies of all revised policy forms containing compliant home health and hospice care service benefits and provide the proposed date that the forms will be put in use. The Division's records indicate that the Respondent has revised the cited forms to include the required verbiage regarding coverage for home health services and hospice care, which if fully implemented, appear to comply with the corrective actions ordered concerning this violation.
- 26. Issue E9: Failure, in some instances, to reflect the mandated benefit coverage for prosthetic devices. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has corrected all applicable policy forms to reflect the mandated coverage benefits for prosthetic devices as required by Colorado insurance law. The Respondent was also required to provide the Division with specimen copies of all revised policy forms containing compliant prosthetic device benefits and provide the proposed date that the forms will be put in use. The Division's records indicate that the Respondent has revised the cited forms to include the required verbiage regarding coverage for prosthetic devices, which if fully implemented, appear to comply with the corrective actions ordered concerning this violation.

- 27. Issue E10: Failure, in some instances, to reflect the mandated coverage for early intervention services for an eligible child. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable policy forms to reflect the mandated coverage for early intervention services for an eligible child as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant early intervention services for eligible children and provide the proposed date that the forms will be put in use.
- 28. Issue E11: Failure, in some instances, to reflect the mandated coverage of hearing aids for minor children who have a hearing loss or reflecting an exclusion for hearing aids. This failure constitutes a violation of § 10-16-104, C.R.S. and Colorado Insurance Regulation 4-2-30. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has corrected all applicable policy forms to reflect the required mandated coverage of hearing aids for minor children as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant hearing aid for minor children coverage and provide the proposed date that the forms will be put in use.
- 29. Issue E12: Failure, in some instances, to reflect correct or complete required therapy visits for congenital defects and birth abnormalities. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised the content of all applicable policy forms to reflect complete and correct coverage benefits to be provided for therapy services for congenital defects and birth abnormalities as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant congenital defect and birth abnormalities benefits and provide the proposed date that the forms will be put in use.
- 30. Issue E13: Failure, in some instances, to reflect any or a complete description of the mandated minimum coverage to be provided for maternity and newborn hospital stays. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has corrected all applicable policy forms to reflect the complete benefits to be provided for maternity and newborn hospital stays as required by Colorado insurance law. The Respondent was also required to provide the Division with specimen copies of all revised policy forms containing compliant maternity benefits and provide the proposed date that the forms will be put in use. The Division's records indicate that the Respondent has revised the cited forms to include the required verbiage regarding coverage for maternity and newborn hospital stays, which if fully implemented, appear to comply with the corrective actions ordered concerning this violation.

- 31. Issue E14: Failure, in some instances, to allow benefits for any loss incurred while an insured is engaged in the military, naval or air services of any country. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised the content of all applicable policy forms to indicate that the amount or extent of coverage available to an individual is not limited based on that individual's membership in the uniformed services of the United States as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant coverage eligibility and provide the proposed date that the forms will be put in use.
- 32. Issue E15: Failure, in some instances, to reflect the required definition of complications of pregnancy or to reflect that this is a mandated coverage to be provided for as any other similar sickness or disease is otherwise covered under the policy or certificate of insurance. This failure constitutes a violation of § 10-16-104, C.R.S. and Colorado Insurance Regulation 4-2-6. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable policy forms to reflect a compliant definition of complications of pregnancy and to indicate that this is a mandated coverage as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing a compliant definition of complications of pregnancy and provide the proposed date that the forms will be put in use.
- 33. Issue E16: Failure, in some instances, to define correctly or completely the requirements for a person to qualify as a dependent. This failure constitutes a violation of §§ 10-16-102, 10-16-104 and 10-16-104.3, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has corrected all applicable policy forms to reflect a complete and correct definition of who qualifies as a dependent and its procedures to ensure that coverage is offered to all eligible persons as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing a compliant definition of a dependent. Additionally, the Company shall provide evidence of having in place the procedures to offer dependent coverage for an unmarried child who is under twenty-five years of age, and is not a dependent as defined by § 10-16-102, C.R.S.
- 34. Issue E17: Failure, in some instances, to reflect any information about the effect creditable coverage would have on any preexisting period. This failure constitutes a violation of § 10-16-118, C.R.S. and Colorado Insurance Regulation 4-2-18. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has corrected all applicable policy forms to reflect the correct definition of creditable coverage and preexisting coverage as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing

- compliant definitions of creditable coverage and preexisting coverage and provide the proposed date that the forms will be put in use.
- 35. Issue E18: Failure, in some instances, to reflect correct benefits or to reflect any benefits for treatment and services to be provided to newborn children born with cleft lip or cleft palate. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has corrected all applicable policy forms to reflect the correct coverage to be provided for newborn children born with cleft lip, cleft palate, or both as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant cleft lip/palate coverage benefits and provide the proposed date that the forms will be put in use.
- 36. Issue E19: Failure, in some instances, to reflect correct and complete required provisions in individual and group policies. This failure constitutes a violation of §§ 10-16-202 and 10-16-214, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable policy forms to reflect complete and correct provisions in its individual and group coverage plans as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant benefit provisions and the proposed date that the forms will be put in use.
- 37. Issue E20: Failure, in some instances, to reflect correctly or to reflect any benefits to be paid for the preventive health care service of colorectal cancer screening. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable policy forms to reflect the mandated coverage to be provided for colorectal cancer screening as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant benefit provisions for colorectal screenings and the proposed date that the forms will be put in use.
- 38. Issue E21: Failure, in some instances, to reflect correct or any information concerning the mandated benefits and coverage provisions for diabetes. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable policy forms to reflect the mandated benefit coverage for diabetes coverage as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant benefit provision for diabetes and the proposed date that the forms will be put in use.

- 39. Issue E22: Failure, in some instances, to allow coverage for losses resulting from a covered person being under the influence of an intoxicant or a narcotic. This failure constitutes a violation of § 10-16-201, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised all applicable policy forms to provide coverage for losses resulting from a covered person being under the influence of an intoxicant or a narcotic as required by Colorado insurance law. The Respondent was also required to provide the Division with specimen copies of all revised policy forms containing compliant coverage provisions and the date that the forms will be put in use. The Division's records indicate that the Respondent has revised the cited forms to include compliant language regarding coverage for losses resulting from a covered person being under the influence of an intoxicant or a narcotic, which if fully implemented, appears to comply with the corrective actions ordered concerning this violation.
- 40. Issue E23: Failure, in some instances, to provide credit for previous coverage for any conditions or for certain named conditions. This failure constitutes a violation of §§ 10-16-102 and 10-16-118, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised all applicable policy forms to reflect the possibility of creditable coverage reducing or eliminating the time period applicable for coverage to be available for any preexisting conditions as required by Colorado insurance law. The Respondent was also required to provide the Division with specimen copies of all revised policy forms containing compliant language and the proposed date that the forms will be put in use. The Division's records indicate that the Respondent has revised the cited forms to reflect correct information regarding creditable coverage, which if fully implemented, appears to comply with the corrective actions ordered concerning this violation.
- 41. Issue E24: Failure, in some instances, to reflect a correct definition of a pre-existing condition limitation. This failure constitutes a violation of § 10-16-118, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable policy forms to reflect a correct definition of a pre-existing condition limitation as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant pre-existing condition limitation provision and the proposed date that the forms will be put in use.
- 42. Issue E25: Failure to reflect correct or complete information in the certificate of Creditable Coverage used by the Company. This failure constitutes a violation of § 10-16-118, C.R.S. and Colorado Insurance Regulation 4-2-18. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised its Certificate of Creditable Coverage to reflect correct and complete information as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of the revised Certificate of Creditable Coverage containing compliant

- provisions and the proposed date that the forms will be put in use.
- 43. Issue E26: Failure, in some instances, to reflect any fraud warning or a fraud warning that is substantially the same required wording on applications for insurance. This failure constitutes a violation of § 10-1-128, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable forms to reflect a "fraud warning" with substantially the same wording as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised forms containing compliant fraud warming notice and the proposed date that the forms will be put in use.
- 44. Issue E27: Failure to file a large group health policy marketed in Colorado during the period under examination. This failure constitutes a violation of §§ 10-16-104 and 10-16-107.2, C.R.S. and Colorado Insurance Regulation 1-1-6. No later than thirty (30) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has implemented procedures to ensure that all policies marketed in Colorado are filed as required by Colorado insurance law.
- 45. Issue E28: Failure, in some instances, to allow expenses incurred due to an accident while participating in any hazardous sports or hazardous occupations. This failure constitutes a violation of § 10-3-1104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised applicable forms to remove overly broad exclusions related to accident benefits for participating in hazardous sports and hazardous occupations in accordance with Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised forms containing compliant provisions and the proposed date that the forms will be put into use.
- 46. Issue E29: Failure, in some instances, to offer any coverage for alcoholism benefits or to offer benefits at least equal to minimum requirements. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable policy forms to reflect benefits for treatment of and for conditions arising from alcoholism that are at least equal to minimum requirements as required by Colorado insurance law. Within these sixty (60) days, Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant benefit provisions and the proposed date that the form will be put in use.
- 47. Issue E30: Failure, in some instances, to provide benefits for biologically based mental illness and mental disorders. This failure constitutes a violation of § 10-16-104, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable policy forms to reflect the coverage to be provided for biologically based mental illness and mental disorders as required by Colorado insurance law. Within these sixty (60) days,

Respondent shall also provide the Division with specimen copies of all revised policy forms containing compliant benefit provisions and the proposed date that the forms will be put in use.

- 48. Issue F1: Failure to file and use of unfiled rates. This failure constitutes a violation of § 10-16-106.5, C.R.S. No later than thirty (30) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised its procedures to ensure that all rates are filed prior to marketing a product as required by Colorado insurance law. Within these thirty (30) days, Respondent shall also provide documentation that all rates currently in use have been filed with the Division.
- 49. Issue J1: Failure, in some instances to pay, deny or settle claims within the required time periods. This failure constitutes a violation of § 10-16-107, C.R.S. and Colorado Insurance Regulation 4-2-11. The Respondent was required to provide written evidence to the Division that it has revised its procedures to ensure that all claims are paid, denied or settled within the required time periods in compliance with Colorado insurance law. The Division's records indicate that the Respondent has revised its procedures and provided training to staff regarding prompt payment requirements of claims in Colorado, which if fully implemented, appear to comply with the corrective actions ordered concerning this violation.
- 50. Issue J2: Failure, in some instances, to pay late payment interest and/or penalties due on claims. This failure constitutes a violation of § 10-16-106.5, C.R.S. The Respondent was required to provide written evidence to the Division that it has established the necessary procedures to ensure that all late payment interest and penalties due on claims is paid, regardless of the amount, in compliance with Colorado insurance law. The Division's records indicate that the Respondent has revised its procedures and provided training to staff regarding the requirements for calculating and paying interest and penalties on claims not paid timely in Colorado, which if fully implemented, appear to comply with the corrective actions ordered concerning this violation.
- 51. The issues and violations described in paragraphs 16 through 50 above are grounds for penalties to be levied pursuant to § 10-1-205(3)(d), C.R.S. The Commissioner has ordered a civil penalty in the amount of seventy-nine thousand and no/100 dollars (\$79,000.00) for the cited violations of Colorado law. The \$79,000.00 penalty shall be assessed a surcharge of 10% of the penalty amount up to a maximum of \$7,500.00, pursuant to 24-34-108, C.R.S., for a total balance due of eighty-six thousand five hundred dollars (\$86,500.00). The surcharge shall be used to fund the development, implementation and maintenance of a consumer outreach and education program. The penalty and surcharge shall be due to the Division no later than thirty (30) days from the date of this Final Agency Order.
- 52. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Final Agency Order, the Respondent shall file affidavits executed by each of its directors

- stating under oath that they have received a copy of the Report, as modified and adopted by this Final Agency Order, dated April 25, 2012.
- 53. This Final Agency Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Final Agency Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Final Agency Order may result in additional actions, penalties and sanctions, as provided for by law. Copies of the Modified Report and this Final Agency Order will be made available to the public no earlier than thirty (30) days after the date of this Final Agency Order, subject to the requirements of § 10-1-205, C.R.S.
- 54. Pursuant to § 10-1-205(4)(a), C.R.S., this Final Agency Order shall be considered a final agency decision. Review of such decision may be sought in the District Court in and for the City and County of Denver and shall be governed by the "State Administrative Procedure Act," Article 4 of Title 24, C.R.S.
- 55. Pursuant to § 10-1-205(4)(e), C.R.S., the civil penalty assessed in this Final Agency Order may be appealed directly to the Colorado Court of Appeals within the applicable time frames of the Colorado Appellate Rules.

WHEREFORE: It is hereby ordered that the findings of facts and conclusions of law contained in the Report dated February 24, 2012, subsequently adopted by the Commissioner with modifications on April 25, 2012, are hereby filed and made an official record of this office, and the within Final Agency Order incorporating the adopted Modified Report is hereby approved and effective this 25th day of April, 2012.

Jim Riesberg

Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 25th day of April, 2012, I caused to be deposited the **FINAL AGENCY ORDER NO. O-12-142 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF UNITED AMERICAN INSURANCE COMPANY,** in the United States Mail via certified mailing with postage affixed and addressed to:

Mr. Andrew W. King, President United American Insurance Company PO Box 8080 McKinney, TX 75070-8080

Eleanor Patterson

Market Regulation Administrator

Division of Insurance